1 **BEFORE THE** CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD 2 STATE OF CALIFORNIA 3 4 In the Matter of: CIWMB No. 2001-010059-ADH 5 6 HILARIO TORRES, OPERATOR OAH No. L-2001090388 FISCAL TIRES 7 Respondent 8 Hauler Registration No. 1244 9 10 11 FINAL DECISION 12 On October 23, 2001, in Los Angeles, California, Eric Sawyer, Administrative 13 Law Judge, Office of Administrative Hearings, State of California, heard this matter. 14 Lynda D. Williams, Staff Counsel, California Integrated Waste Management 15 Board, represented complainant. 16 Respondent Hilario Torres represented himself. 17 During the Prehearing Conference of this matter, the parties entered into a 18 19 settlement agreement, the terms of which were placed on the record. The record was 20 closed and the matter was submitted. The hearing set for October 25, 2001 was 21 vacated. 22 The following proposed decision is based on the settlement terms. 23 24 **FACTUAL FINDINGS** 25 Pursuant to the Settlement Agreement, placed on the record, respondent 26 27

28

knowingly admitted each of the allegations in Administrative Complaint # 2001-010059-ADH, and the parties agreed the Administrative Law Judge would make the following factual findings, legal conclusions, and the order as set forth below:

- 1. The Administrative Complaint for Penalty was issued by the California Integrated Waste Management Board (CIWMB) to Hilario Torres, individually an as operator of Fiscal Tires, a waste tire hauler, seeking Five Thousand Dollars (\$5,000.00) in civil penalties.
- 2. The CIWMB has authority to regulate and conduct enforcement actions against Waste Tire Haulers within the State of California under Public Resources Code, Sections 42800, et seq. and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).
- 3. On November 7, 1999, Hilario Torres, operator of Fiscal Tires, first became registered as a Waste Tire Hauler with the CIWMB. The hauler registration number is 1244. Mr. Torres renewed this registration in December 1999 for the year 2000. This registration expired without being renewed on December 31, 2000.
- 4. On March 23, 2001, Stephen Dolan of the CIWMB Waste Tire Section inspected an Arco Station, located at 1060 J Street, Oxnard, CA. During this inspection, waste tire manifests were reviewed for hauling, which had occurred after December 31, 2000. During the review of these manifests it was noted that the hauler was Fiscal Tires, CIWMB Hauler Registration #1244, which had expired on December 31, 2000.
- 5. On March 27, 2001, A Notice of Violation (NOV) was addressed and posted by U.S. Mail by Mr. Dolan to Hilario Torres as operator of Fiscal Tires. This NOV informed Mr. Torres of the March 23, 2001 inspection of the Oxnard Arco Station and directed him to cease hauling waste tires until he obtained a current Waste Tire Hauling Registration from CIWMB.

6. On May 3, 2001, while in Administrative Hearing involving Motion Tire II, Ventura, CA., Mr. Boyle, the owner/operator of Motion Tire II presented, as evidence, manifests from Fiscal Tires to document he had been using a registered hauler. The first manifest #911117, dated April 10, 2001 and signed by Hilario Torres documented the removal of 597 waste tires. The second manifest #911176, dated April 24, 2001, documented the removal of 200 waste tires from Motion Tire II. Both manifests reflected the tires were removed by Hauler #1244, Fiscal Tires.

- 7. On May 23, 2001, a site visit was conducted at the office of Fiscal Tires, 700 Mountain View, Oxnard, CA, to review all waste tire manifests. The review documented that there were no manifests available for inspection dated after March 17, 2001. Mr. Torres was asked about any manifests documenting hauling for waste tires after these March 17, 2001 date. Mr. Torres stated he had hauled tires from Motion Tire II and Discount Tires, Ventura, CA, since receiving the NOV dated March 27, 2001.
- 8. On May 31, 2001, Mr. Dolan of the CIWMB conducted a Site Visit of Discount Tires, 585 East Thompson Blvd., Ventura, CA to review waste tire manifests. During the review, one manifest, #911030, dated April 21, 2001 documented that Fiscal Tires had removed 200 waste tires on this date.
- 9. A review of CIWMB records indicated that Hilario Torres, d.b.a. and operator of Fiscal Tires, was issued a valid 2001 Waste Tire Hauler Registration on May 23, 2001.

LEGAL CONCLUSIONS

 Section 42962 of the Public Resources Code (PRC) authorizes the CIWMB to administratively impose penalties for violations of any provision of PRC Sections 42950, et seq. Hilario Torres, d.b.a. and operator of Fiscal Tires, hauled waste tires on April 10, April 21, and April 24, 2001 in violation of Public Resources Code (PRC), Section 42951. Factual Findings 3 through 9. This code section makes it unlawful, on or after January 1995, to engage in the transportation of waste tires if not holding a valid Waste Tire Hauler Registration, unless exempted as specified in PRC, Section 42954. Hilario Torres, operator of Fiscal Tires does not meet any of the exemptions specified in PRC, Section 42954.

- 2. Hilario Torres, operator of Fiscal Tires, represented himself as being registered as a waste tire hauler to Motion Tire II and Oxnard Arco by using his waste tire hauler registration number 1244 on manifests to haul waste tires from their facilities. Factual Findings 1 through 9.
- 3. Cause exists to impose a civil penalty against Hilario Torres, operator of Fiscal Tires pursuant to Public Resources Code, Sections 42951, 42954,, and 42962, and Title 14 of the California Code of Regulations, as set forth in Findings 1 through 9.

ORDER

Pursuant to the parties' stipulation in settlement of this matter, the following order of disposition is made:

Respondent Hilario Torres, operator of Fiscal Tires shall pay a civil penalty to complainant of \$150.00 per month for 28 consecutive months, for a total of \$4,200.00.

Respondent shall also make his business premises and records available during this 28 month period to an investigator of complainant's choosing for periodic inspections of his manifests and other documents to insure respondent is only hauling

1	tires while he has a valid registration to do so.
2	If respondent is late on any monthly payment, or any monthly payment is less
3	than the \$150.00 amount, he shall be in breach of the settlement agreement.
4	
5	Dated:
6	
7	Linda Moulton-Patterson, Chair
8	Linua Moulton-Patterson, Chair
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	_